UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Alejandro Alvarez, *Plaintiff,*	§	
	§	CIVIL ACTION NO: 4:16-cv-2122
vs.	§	
	§	
Arvis Fields (in his individual capacity), and Ernest Mireles (in his individual capacity), *Defendants,*	§	JURY DEMANDED
	§	
	§	

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT SITTING IN THE SOUTHERN DISTRICT OF TEXAS:

Plaintiff respectfully comes before this Honorable Court pursuant to 42 U.S.C. § 1983 complaining that Defendants herein acted under color of state law and deprived him of his clearly established constitutional rights under the Fourth and Fourteenth Amendments to (1) remain free from (a) unreasonable searches and seizures (b) unlawful imprisonment and (2) due process of law. In support thereof, Plaintiff specifically alleges the following:

I. SUMMARY OF THE ACTION

1. Defendants impermissibly arrested, detained, and incarcerated Plaintiff based on their unreasonably false beliefs that there was a warrant for Plaintiff's arrest from Wood County, Texas.
2. There was no warrant for Plaintiff's arrest.
3. Federal agents investigated the matter, confirmed there was no warrant for Plaintiff's arrest, and informed Defendants of same prior to Defendants' unconstitutional arrest of Plaintiff.
4. Defendants lacked even a scintilla of probable cause to arrest Plaintiff.
5. Defendants' decision to arrest Plaintiff despite knowing there was no warrant for his arrest was plainly incompetent and/or a knowing violation of the law.

II. JURISDICTION AND VENUE

6. This Court has jurisdiction to hear the merits of Plaintiff's claims under 28 U.S.C. §§ 1331 and 1343(a) (3) and (4) because Plaintiff's suit arises under 42 U.S.C. § 1983.
7. Venue is proper under 28 U.S.C. § 1391(b) because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the Southern District of Texas, Houston Division.
8. All conditions precedent have been performed or have occurred.

III. DEMAND FOR JURY TRIAL

9. Plaintiff respectfully demands a trial by jury.

IV. PARTIES

10. Plaintiff Alejandro Ramirez Alvarez is and was at all times relevant hereto an individual residing in the United States and a resident of Washington County, Oregon. He may be contacted and served with all necessary documents through his counsel of record, William Pieratt Demond and Meagan Hassan, DEMOND & HASSAN, PLLC, 2450 Louisiana St., #400-528, Houston, TX 77006.
11. Defendant A.J. Fields is and was at all relevant times a police officer employed by the City of Houston and is being sued in his individual capacity. He may be served at his place of work, Houston Police Department, 1200 Travis, Houston, TX 77002, or wherever he may be found in Texas.
12. Defendant Ernest Mireles is and was at all relevant times a police officer employed by the City of Houston and is being sued in his individual capacity. He may be served at his place of work, Houston Police Department, 1200 Travis, Houston, TX 77002, or wherever he may be found in Texas.

V. FACTS

A. August 15, 2015

13. On August 15, 2015:
   a. Plaintiff resided in Beaverton, Oregon;
   b. Plaintiff (along with his 15-year-old son) embarked on a vacation from Portland, Oregon to Cancun, Mexico;
   c. Plaintiff had a layover at George Bush Intercontinental Airport ["IAH"] in Houston, Texas;
   d. Customs and Border Patrol ["CBP"] agents at IAH became aware of a Wood County, Texas warrant for a man named Alejandro Ramirez;
   e. Plaintiff was briefly detained by said CBP agents at IAH;
   f. Said IAH CBP agents investigated Plaintiff to determine whether or not there was a warrant for his arrest;
   g. Said IAH CBP agents concluded there was no warrant for Plaintiff's arrest; and
   h. Said IAH CBP agents informed Plaintiff there was no warrant for his arrest.

14. Before said IAH CBP agents released Plaintiff, Defendants Fields and Mireles arrived.

15. Defendants Fields and Mireles:
   a. received a copy of Plaintiff's identification;
   b. saw Plaintiff's identification showed he resided in Oregon;
   c. saw, should have seen, or must have seen that Plaintiff's name and residence materially differed from the address in the Wood County warrant;
   d. were told by the IAH CBP agents that Plaintiff was not the individual named in the Wood County warrant;
   e. conducted no independent investigation into whether or not Plaintiff was the individual named in the Wood County warrant;
   f. had no probable cause to believe Plaintiff was the individual named in the Wood County warrant;
   g. ignored actual knowledge from fellow law enforcement officers who had conducted an investigation and determined Plaintiff was not the individual named in the Wood County warrant;

h. had no valid reason to ignore the actual knowledge gained via fellow law enforcement officers that Plaintiff was not the individual named in the Wood County warrant; and
i. arrested Plaintiff.

16. After IAH CBP agents informed Defendants that there was no warrant for Plaintiff's arrest, Defendant Fields told Plaintiff, "I don't care; I'm still taking you in."

B. The Wood County warrant and Plaintiff

17. The warrant from Wood County, Texas was for a man named "Alejandro Ramirez".
18. Plaintiff:
   a. is named is Alejandro Ramirez Alvarez;
   b. has a birth date that is the same date as the Alejandro Ramirez wanted by Wood County;
   c. has never resided in Texas;
   d. has never been to Wood County, Texas;
   e. has no business interests in Texas; and
   f. has no criminal history in Texas.
19. These facts:
   a. cleared Plaintiff from any reasonable suspicion that he was the individual named in the Wood County warrant;
   b. eliminated all arguable probable cause to believe Plaintiff was the individual named in the Wood County warrant; and
   c. were readily available to Defendants at the time they arrested Plaintiff.

C. The events at the jail

20. Upon his arrival at jail, Plaintiff:
   a. repeatedly asserted his innocence to supervisory personnel in the jail;
   b. spoke to an HPD Sergeant who:
      i. investigated Plaintiff's claims of innocence;

ii. searched databases in an effort to discern whether Plaintiff was the individual named in the Wood County warrant;

iii. verified Plaintiff was not the individual named in the Wood County warrant;

iv. told Plaintiff he understood Plaintiff was not the individual named in the Wood County warrant;

v. told Plaintiff (after his investigation) that, "I do not know why we got you here;" and

vi. told Plaintiff that in spite of Plaintiff's innocence, Plaintiff would not be released and instead must "go through the system."

c. was told by another HPD officer that "I looked you up and there is nothing";

d. was told by another HPD officer that "we have nothing on you"; and

e. was detained by HPD for four days (from August 15, 2015 to August 19, 2015).

21. On August 19, 2015, Plaintiff was released from HPD custody.

22. Plaintiff was never provided with an explanation as to why he was being released.

23. Plaintiff was never provided with an explanation as to why he was kept in custody for several days subsequent to the discovery that he was not the person named in the Wood County warrant.

D. Plaintiff's efforts to resolve this matter without litigation

24. Plaintiff (through the undersigned counsel) sent a demand for a reasonable offer to the Mayor of Houston, every member of the Houston City Council, the Houston Police Department Chief of Police, and Defendant Fields in an effort to avoid unnecessary litigation.

25. Plaintiff's letter provided said recipients with 45 days to make a reasonable offer to avoid a § 1983 claim in federal court.

26. Plaintiff received no response to his demand letter.

VI. CAUSES OF ACTION

COUNT 1 – 42 U.S.C. § 1983

Plaintiff alleges Defendants violated his clearly established rights under the Fourth Amendment to the United States Constitution to remain free from unreasonable seizure and arrest

27. The foregoing paragraphs are incorporated herein as if quoted verbatim.
28. On August 15, 2015, Plaintiff's constitutional right to remain free from arrest without probable cause was:
    a. secured to him by the Fourth Amendment to the United States Constitution;
    b. violated by Defendants; and
    c. clearly established within the Southern District of Texas.
29. Defendants unconstitutionally arrested and detained Plaintiff despite:
    a. having actual notice that there was no warrant for his arrest;
    b. their unconstitutional failure to conduct any investigation to discern whether or not there was a warrant for his arrest; and
    c. their unconstitutional decision to ignore information from law enforcement officers who had conducted an investigation evidencing that there was no warrant for Plaintiff's arrest.
30. On August 15, 2015, all reasonable officers would have known:
    a. Plaintiff had a clearly established right to remain free from unreasonable seizures as guaranteed by the Fourth Amendment to the United States Constitution;
    b. that there was no probable cause to arrest a person under the facts herein;
    c. that there was no probable cause to arrest a person when:
        a. they receive notice from fellow law enforcement officers that there is no probable cause to arrest said person; and
        b. they fail to conduct an independent investigation which establishes the existence of probable cause to arrest said person;
    d. they have no probable cause to arrest a person:
        a. who has committed no crime; and
        b. for whom there is no arrest warrant;

e. receiving information from fellow law enforcement officers (who have conducted an investigation) that there was no arrest warrant for a particular person required them to perform some semblance of an investigation before unilaterally ignoring said officers and deciding an arrest warrant existed for that person;

f. they had ample resources available to them to determine whether or not a particular person had a warrant for their arrest;

g. refusing to utilize said resources to determine whether or not a particular person had a warrant for their arrest before arresting them was manifestly unreasonable;

h. refusing to confirm that a particular person had a warrant for their arrest before arresting them would lead to the overwhelming likelihood that such a person would be deprived of his or her clearly established rights under color of law;

i. Defendants did not perform a reasonable investigation to discern whether or not there was a warrant for Plaintiff's arrest;

j. failing to reasonably investigate whether there was a warrant for Plaintiff's arrest before arresting him under the facts herein constituted deliberate indifference to Plaintiff's clearly established constitutional rights;

k. there was no probable cause to arrest Plaintiff under the facts herein;

l. deciding to arrest Plaintiff under the facts herein was patently unreasonable in light of clearly established law; and

m. Defendants' arrest of Plaintiff under these particular circumstances was plainly incompetent or a knowing violation of clearly established law.

31. Defendants' refusal to perform even a cursory investigation (despite receiving actual notice from federal law enforcement officers who conducted a thorough investigation which revealed that there was no arrest warrant for Plaintiff) constitutes deliberate indifference to Plaintiff's clearly established constitutional right under the Fourth Amendment to remain free from unreasonable seizure.

32. Defendants' seizure and arrest of Plaintiff:

a. was plainly incompetent;

b. knowingly violated the law;

c. intentionally violated the law;

d. was the product of unreasonably mistaken beliefs;

e. under these particular circumstances was objectively unreasonable in light of clearly established law;

f. evidences an unreasonable misunderstanding of their powers and responsibilities; and

g. was a moving force behind the deprivation Plaintiff's civil rights under color of law.

33. Plaintiff seeks punitive damages against Defendants because they:

a. knew they lacked probable cause to arrest Plaintiff;

b. acted with conscious indifference to the possibility that they lacked probable cause to arrest Plaintiff;

c. acted with reckless or callous indifference to Plaintiff's federally protected rights;

d. recklessly trampled on Plaintiff's rights through plainly unlawful conduct; and/or

e. were grossly negligent in their arrest of Plaintiff.

34. The fact that federal law enforcement officers confirmed Plaintiff was not the man identified in the Wood County, Texas warrant before Defendants arrested him evidences that such information was readily and quickly accessible to law enforcement agents, thereby further demonstrating Defendants':

a. deliberate, conscious, reckless, and callous indifference; and/or

b. gross negligence.

Count 2– 42 U.S.C. § 1983

Plaintiff alleges Defendants violated his clearly established rights under the Fourteenth Amendment to the United States Constitution to remain free from false and unlawful imprisonment without due process of law

35. The foregoing paragraphs are incorporated herein as if quoted verbatim.

36. On August 15, 2015, Plaintiff's constitutional right to remain free from unlawful imprisonment without due process of law was:

a. secured to him by the Fourteenth Amendment to the United States Constitution;

b. violated by Defendants; and

c. clearly established within the Southern District of Texas.

37. On August 15, 2015, all reasonably well-trained officers acting under the same or similar circumstances would know:
    a. it was necessary to obtain proper information regarding Plaintiff's identity for the purposes of filing an arrest report;
    b. it was necessary to obtain proper information regarding Plaintiff's identity to verify Plaintiff matched the individual named in the Wood County warrant;
    c. that such identifying information could readily be obtained through a variety of sources available to Defendants at the time of the arrest;
    d. that continuing to arrest and hold Plaintiff in custody without any attempt to verify his identity would lead to the overwhelming likelihood that he would be unlawfully incarcerated in violation of his Fourth and Fourteenth Amendment rights; and
    e. that this failure to investigate constitutes conscious indifference to the potential for such a constitutional deprivation.
38. Defendants:
    a. possessed actual and constructive knowledge through Plaintiff was not the individual named on the Wood County warrant;
    b. told Plaintiff they had actual notice that he was not the person named in the Wood County warrant;
    c. knew continuing Plaintiff's incarceration while knowing that Plaintiff was not the individual named in the Wood County warrant would directly lead to the deprivation of Plaintiff's Fourteenth Amendment right to remain free of false imprisonment without due process of law;
    d. deliberately (or with deliberate indifference thereto) chose to omit the fact that they had been informed Plaintiff was not the person named in the Wood County arrest warrant when they presented Plaintiff to the magistrate, thereby preventing the magistrate from making a fair and accurate determination of probable cause therein; and
    e. callously disregarded the constitutional deprivations taking place by continuing Plaintiff's incarceration for an additional four days.

39. Defendants' callous and willful indifference to continued and unconstitutional imprisonment constitutes deliberate indifference.

40. Defendants' continued incarceration of Plaintiff:

    a. was plainly incompetent;
    b. knowingly violated the law;
    c. intentionally violated the law;
    d. was objectively unreasonable in light of clearly established law under the circumstances pled herein;
    e. evidences an unreasonable misunderstanding of their powers and responsibilities; and
    f. was a moving force behind the deprivation of Plaintiff's civil rights under color of law.

41. Plaintiff seeks punitive damages against Defendants because they:

    a. knew they lacked any reasonable grounds to hold Plaintiff in custody yet continued to confine him for four additional days;
    b. acted with conscious indifference to the possibility that they were imprisoning an innocent individual;
    c. acted with reckless or callous indifference to Plaintiff's federally protected rights;
    d. recklessly trampled on Plaintiff's rights through plainly unlawful conduct; and/or
    e. acted with gross negligence.

42. The fact that federal law enforcement officers confirmed Plaintiff was not the man identified in the Wood County, Texas warrant before Defendants arrested him evidences that such information was readily and quickly accessible to law enforcement agents, thereby further demonstrating Defendants':

    a. deliberate, conscious, reckless, and callous indifference; and/or
    b. gross negligence.

COUNT 3 – 42 U.S.C. § 1983/*Franks*

Plaintiff alleges Defendants violated his clearly established rights under the Fourth Amendment to the United States Constitution when they intentionally or recklessly made materially false statements or omissions to the magistrate

43. The foregoing paragraphs are incorporated herein as if quoted verbatim.

44. On August 15, 2015,
    a. Defendants had received credible information from federal law enforcement agents that Plaintiff was not individual named in the Wood County, Texas warrant;
    b. Defendants did not inform the magistrate that he had received such information;
    c. Defendants intentionally or recklessly made materially false statements or omissions which caused the magistrate to wrongly decide there was probable cause to arrest Plaintiff;
    d. all reasonably well-trained officers acting under the same or similar circumstances would have known that it was necessary to inform the magistrate that they had received information from fellow law enforcement agents that the person presented to the magistrate was not the person named in the relevant warrant; and
    e. all reasonably well-trained officers acting under the same or similar circumstances would have known that information from federal law enforcement agents evidencing an officer's mistake concerning the identity of an arrested person was material.

45. Defendants' refusal to inform the magistrate of the information they received from federal law enforcement agents:
    a. was plainly incompetent;
    b. knowingly violated the law;
    c. intentionally violated the law;
    d. was the product of unreasonably mistaken beliefs;
    e. under these particular circumstances was objectively unreasonable in light of clearly established law;

f. evidences an unreasonable misunderstanding of their powers and responsibilities; and

g. was a moving force behind the deprivation Plaintiff's civil rights under color of law.

46. Plaintiff seeks punitive damages against Defendants because they:

a. knew they lacked probable cause to arrest Plaintiff;

b. acted with conscious indifference to the possibility that they lacked probable cause to arrest Plaintiff;

c. acted with reckless or callous indifference to Plaintiff's federally protected rights;

d. recklessly trampled on Plaintiff's rights through plainly unlawful conduct; and/or

e. were grossly negligent in their presentation of information to the magistrate.

47. The fact that federal law enforcement officers confirmed Plaintiff was not the man identified in the Wood County, Texas warrant before Defendants arrested him evidences that such information was readily and quickly accessible to law enforcement agents, thereby further demonstrating Defendants':

a. deliberate, conscious, reckless, and callous indifference; and/or

b. gross negligence.

VII. DAMAGES

48. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered injuries and damages.

49. Plaintiff therefore seeks compensatory damages (including actual damages, legal fees, and mental distress damages), presumed damages, nominal damages, and punitive damages.

VIII. ATTORNEY FEES

50. Upon prevailing in this matter, Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988.

IX. PRAYER

51. For these reasons, Plaintiff asks for judgment against Defendants for the following:

(a) actual damages;

(b) emotional distress damages;

(c) mental distress damages;

(d) punitive damages;

(e) presumed damages;

(f) nominal damages;

(g) reasonable attorney fees;

(h) costs of suit; and

(i) all other relief to which Plaintiff may show himself entitled, both at law and in equity.

Respectfully submitted,

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